

REMARKS

I. General

Claims 1-3, 5-9, 11-15 and 17-22 are presently pending in the application, and no claims are amended by this response. The issues in the current Office Action are as follows:

- Claims 1, 5, 7, 11, 13, 17 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by EP 1051045 (hereinafter *Daly*).
- Claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of US 5,936,245 (hereinafter *Goillot*).
- Claims 2-3, 8-9 and 14-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of US 5,528,295 (hereinafter *Wagner*).
- Claims 6, 12 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of US 5,347,378 (hereinafter *Handschy*).
- Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of *Wagner*, and further in view of *Handschy*.

Applicant appreciates the courtesy and professionalism extended by the Examiner thus far. Applicant hereby traverses the rejections and requests reconsideration and withdrawal in light of the remarks contained herein.

II. Claim Rejections

A. 35 U.S.C. § 102(b) Rejection (*Daly*)

On pages 3-13 of the Office Action, claims 1, 5, 7, 11, 13, 17 and 19 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Daly*. Applicant respectfully traverses the rejection.

To anticipate a claim under 35 U.S.C. § 102, a reference must teach every element of the claim. M.P.E.P. § 2131. Moreover, in order for an applied reference to be anticipatory

under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989)). As discussed further below, these requirements are not satisfied by the 35 U.S.C. § 102 rejection because *Daly* does not teach every element of the claims in as much detail as is contained in the claims.

For instance, claim 1 recites, in part, “said function causing said spectral bands to be combined using at least one of: adding and weighted combining.” *Daly* does not teach this feature of claim 1. *Daly*’s deficiency is implicitly acknowledged by the rejection, which states:

Daly teaches that the different spectral bands (i.e. fields) are combined to create a frame in a field to frame combiner (118, figure 8, column 11, line 57 through column 12, line 1). The Examiner interprets this combining to be adding individual fields to create a composite frame. Thus, the spectral bands are combined using at least one of: adding.

Office Action at 2. The above-recited reasoning of the rejection is an attempt to read more into *Daly* than what *Daly* discloses. For a 35 U.S.C. § 102 rejection to be proper, the reference must teach the invention in as much detail as is contained in the claim. M.P.E.P. § 2131 (citing *Richardson*, 9 U.S.P.Q.2d at 1920). Claim 1 not only recites combining, but it also goes into an additional level of detail by reciting at least two possible techniques to perform combining (adding and weighted combining). *Daly*, on the other hand, merely discloses combining and does not disclose any particular technique for combining by the field to frame combiner 118 of Figure 8. *Daly* just simply does not teach combining spectral bands using adding (or weighting combining), and, try as it may, the rejection cannot fill in the gap in *Daly*. For at least this reason, *Daly* fails to teach the above-recited feature of claim 1.

The claims in the application have different scopes. Nevertheless, independent claims 7, 13, and 19 include features that are not taught by *Daly* at least for the reason articulated above with respect to claim 1.

As shown above, independent claims 1, 7, 13, and 19 include features that are not

taught by *Daly*. Dependent claims 5, 11, and 17 each depend either directly or indirectly from respective independent claims and, thus, inherit all of the limitations of their respective independent claims. Thus, *Daly* does not teach all claim limitations of claims 5, 11, and 17. It is respectfully submitted that dependent claims 5, 11, and 17 are allowable at least because of their dependence from their respective base claims for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 102 rejection of claims 1, 5, 7, 11, 13, 17 and 19.

B. 35 U.S.C. § 103(a) Rejection over *Daly* in view of *Goillot*

On pages 14-15 of the Office Action, claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of *Goillot*. Applicant respectfully traverses the rejection.

As shown above, independent claims 1 and 7 include features that are not taught by *Daly*. Dependent claims 21 and 22 each depend either directly or indirectly from respective independent claims 1 and 7 and, thus, inherit all of the limitations of their respective independent claims. Thus, *Daly* does not teach or suggest all claim limitations of claims 21 and 22. The rejection does not rely on *Goillot* to supply the features shown above to be missing from *Daly*, nor does it appear that the cited portions of *Goillot* supply those missing features. It is respectfully submitted that dependent claims 21 and 22 are allowable at least because of their dependence from their respective base claims for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103 rejection of claims 21 and 22.

C. 35 U.S.C. § 103(a) Rejection over *Daly* in view of *Wagner*

On pages 15-23 of the Office Action, claims 2-3, 8-9 and 14-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of *Wagner*. Applicant respectfully traverses the rejection.

As shown above, independent claims 1, 7, and 13 include features that are not taught by *Daly*. Dependent claims 2-3, 8-9 and 14-15 each depend either directly or indirectly from respective independent claims 1, 7, and 13 and, thus, inherit all of the limitations of their

respective independent claims. Thus, *Daly* does not teach or suggest all claim limitations of claims 2-3, 8-9 and 14-15. The rejection does not rely on *Wagner* to supply the features shown above to be missing from *Daly*, nor does it appear that the cited portions of *Wagner* supply those missing features. It is respectfully submitted that dependent claims 2-3, 8-9 and 14-15 are allowable at least because of their dependence from their respective base claims for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103 rejection of claims 2-3, 8-9 and 14-15.

D. 35 U.S.C. § 103(a) Rejection over *Daly* in view of *Handschy*

On pages 23-28 of the Office Action, claims 6, 12 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of *Handschy*. Applicant respectfully traverses the rejection.

As shown above, independent claims 1, 7, and 13 include features that are not taught by *Daly*. Dependent claims 6, 12 and 18 each depend either directly or indirectly from respective independent claims 1, 7, and 13 and, thus, inherit all of the limitations of their respective independent claims. Thus, *Daly* does not teach or suggest all claim limitations of claims 6, 12 and 18. The rejection does not rely on *Handschy* to supply the features shown above to be missing from *Daly*, nor does it appear that the cited portions of *Handschy* supply those missing features. It is respectfully submitted that dependent claims 6, 12 and 18 are allowable at least because of their dependence from their respective base claims for the reasons discussed above. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103 rejection of claims 6, 12 and 18.

E. 35 U.S.C. § 103(a) Rejection over *Daly* in view of *Wagner*, and further in view of *Handschy*

On pages 28-33 of the Office Action, claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Daly* in view of *Wagner*, and further in view of *Handschy*. Applicant respectfully traverses the rejection.

The claims in the application have different scopes. Nevertheless, independent claim 20 includes features that are not taught by *Daly* at least for the reason articulated above with respect to claim 1. The rejection does not rely on *Wagner* or *Handschy* to supply the features

shown above to be missing from *Daly*, nor does it appear that the cited portions of *Wagner* or *Handschy* supply those missing features. Accordingly, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103 rejection of claim 20.

III. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. Please charge any fees required or credit any overpayment to Deposit Account No. 06-2380, under Order No. 46030/P045US/10407184 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Respectfully submitted,

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